



Employee Plans

Internal Revenue Service

Determination Letters: Current Program
and Future Options

October 2, 2003



Mission Statement

- The mission of the Tax Exempt and Government Entities Division is to provide our customers top quality service by helping them understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity and fairness to all.



What does that mean?

- Encourage employers to help employees by providing retirement income
- Facilitate public policy
 - Make
 - Plan adoption easier
 - Plan operation less burdensome
 - Provision of benefits more direct
 - Process





Fulfilling the Mission

- New IRS: Customer focus
- Understand customer's point of view
 - Use to prevent and solve problems
 - Tailor programs to specific needs





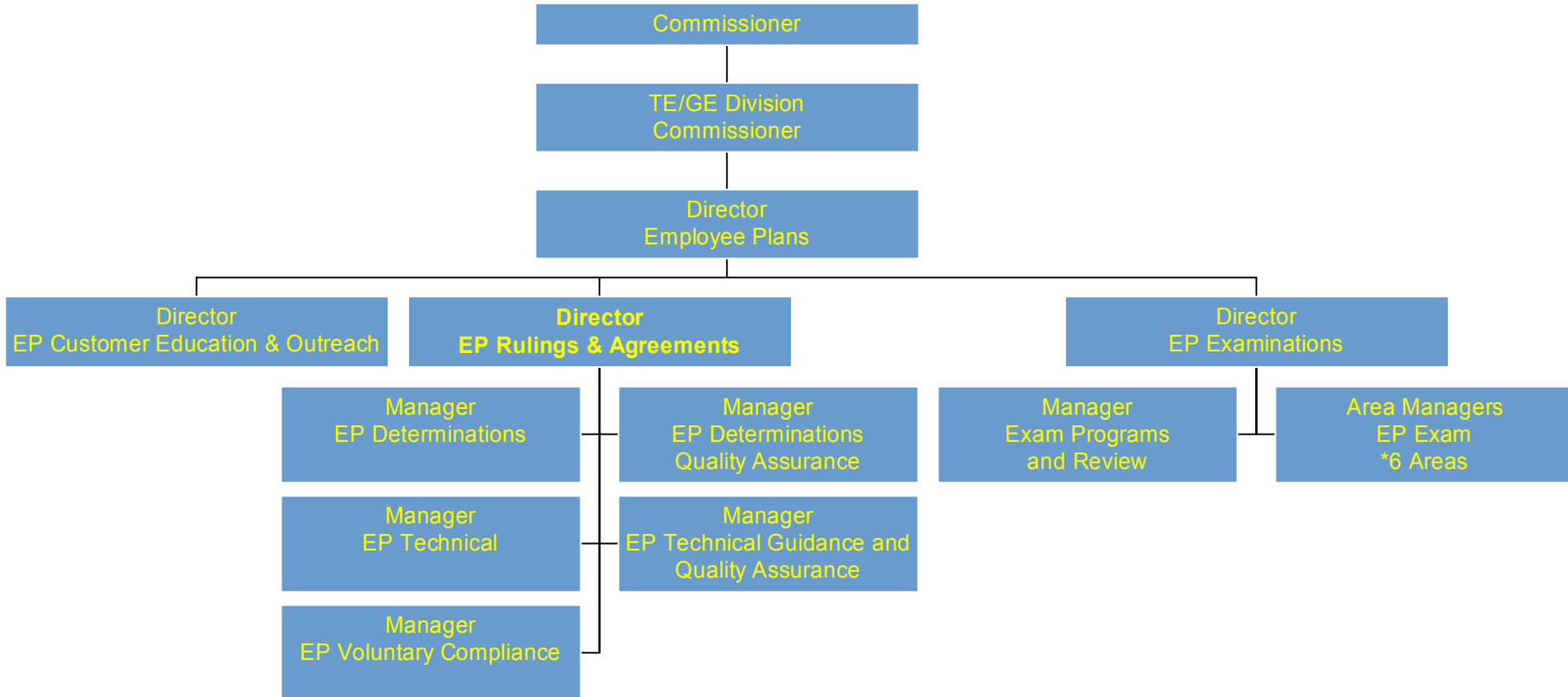
Three Key Categories

- Rulings and Agreements – or assurance
- Customer Education & Outreach –
or communication
- Examinations – or compliance





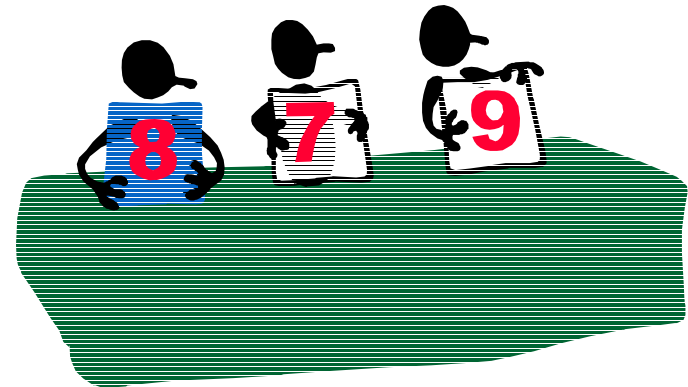
Employee Plans Organization, Within TE/GE





How are we doing?

- Customers very satisfied
- Satisfaction level has grown
- Current satisfaction rates
 - 66% for determinations
 - 71% for examinations





Issues to Address

- Length of:
 - Examinations
 - Determinations
- Explanations of various issues
 - Taxpayer rights
 - Adjustments and amendments



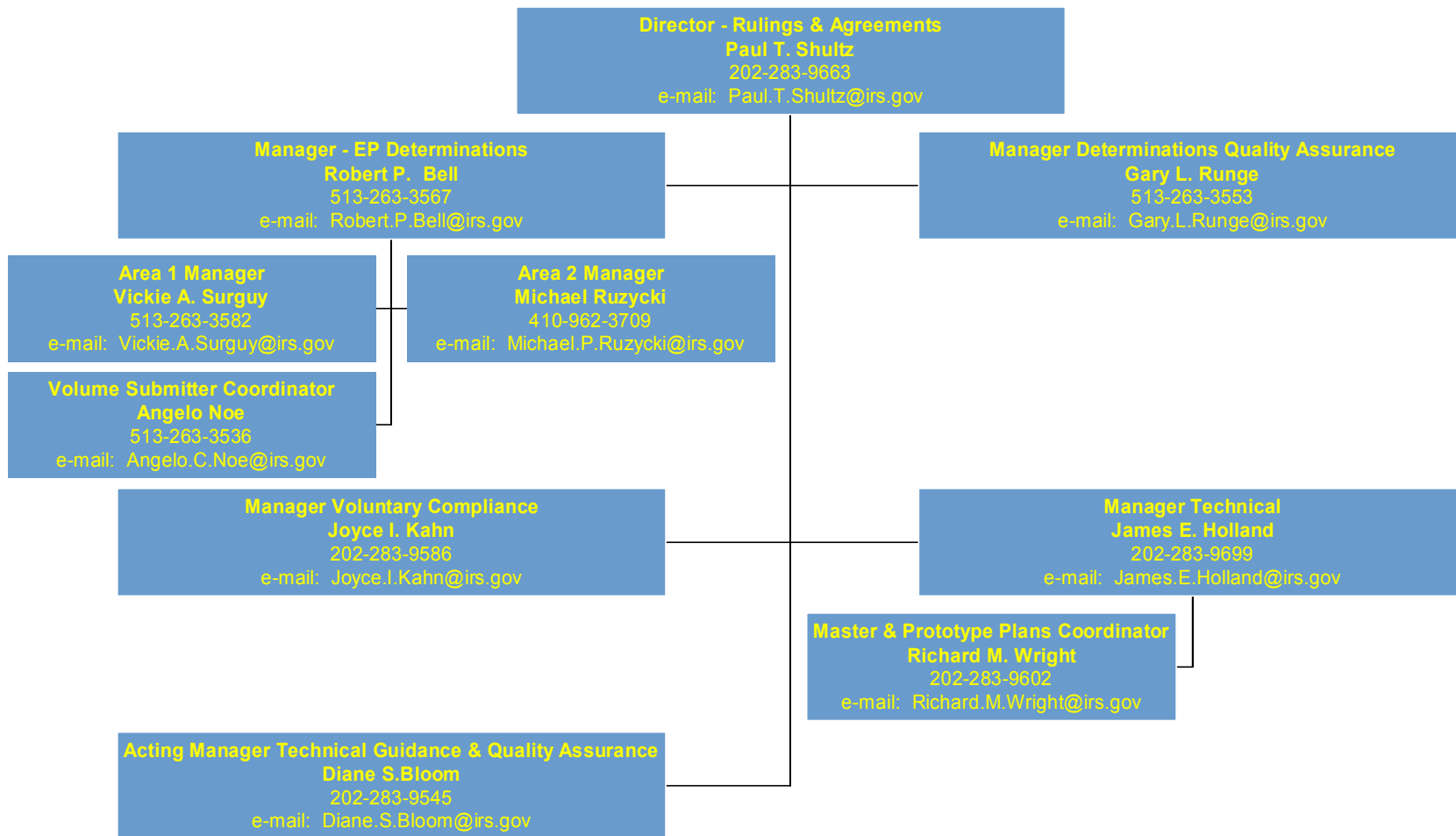


Rulings & Agreements

- Major focus: Determination letter applications for GUST
- Streamlined current determination process
- Plan for future determination process, including EGTRRA submissions
- Ramp up Voluntary Compliance unit
- Address abusive tax shelters using plans
- Administer minimum funding rules for DBs



EP – Rulings and Agreements





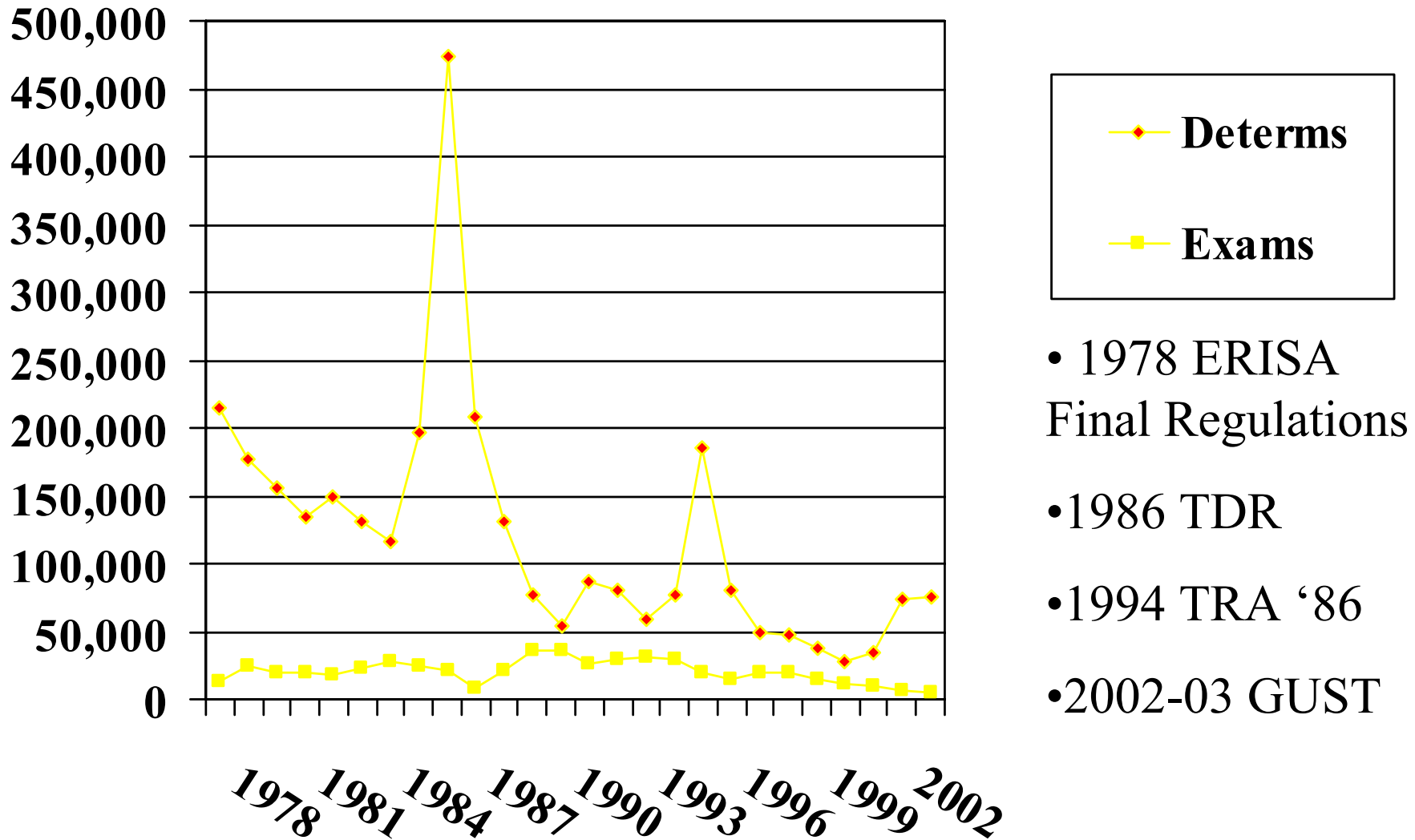
Rulings & Agreements --EP Talking Points

- 9/30 RAP -- Adopters of M&P & VS Plans 1/31/04 to file; \$250 compliance fee if late but before 1/31/04
- Aug. 2003 EP News
- Retirement Plan Correction CD-ROM now
- Ret Plan Correction new publication
- USERRA FAQs on website
- Don't file fringe benefit info with 5500!





Determinations and Examinations “at a Glance”





Receipts through September 30, 2002 (End FY2002)

Forms 5300/5303	40,000
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Forms 5307/6406	25,000
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Form 5310	8,000
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Total as of September 30:	73,000
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Total as of Sept. 6, 2003:	61,900 mostly 5307's
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Receipts through Sept. 6, 2004 (FY2003)

Forms 5300/5303	8,200/8,600
Forms 5307/6406	47,800/50,100
Form 5310	5,500/5,900

Total as of Sept. 6, 2003: 61,900

64,000 as of 9/30

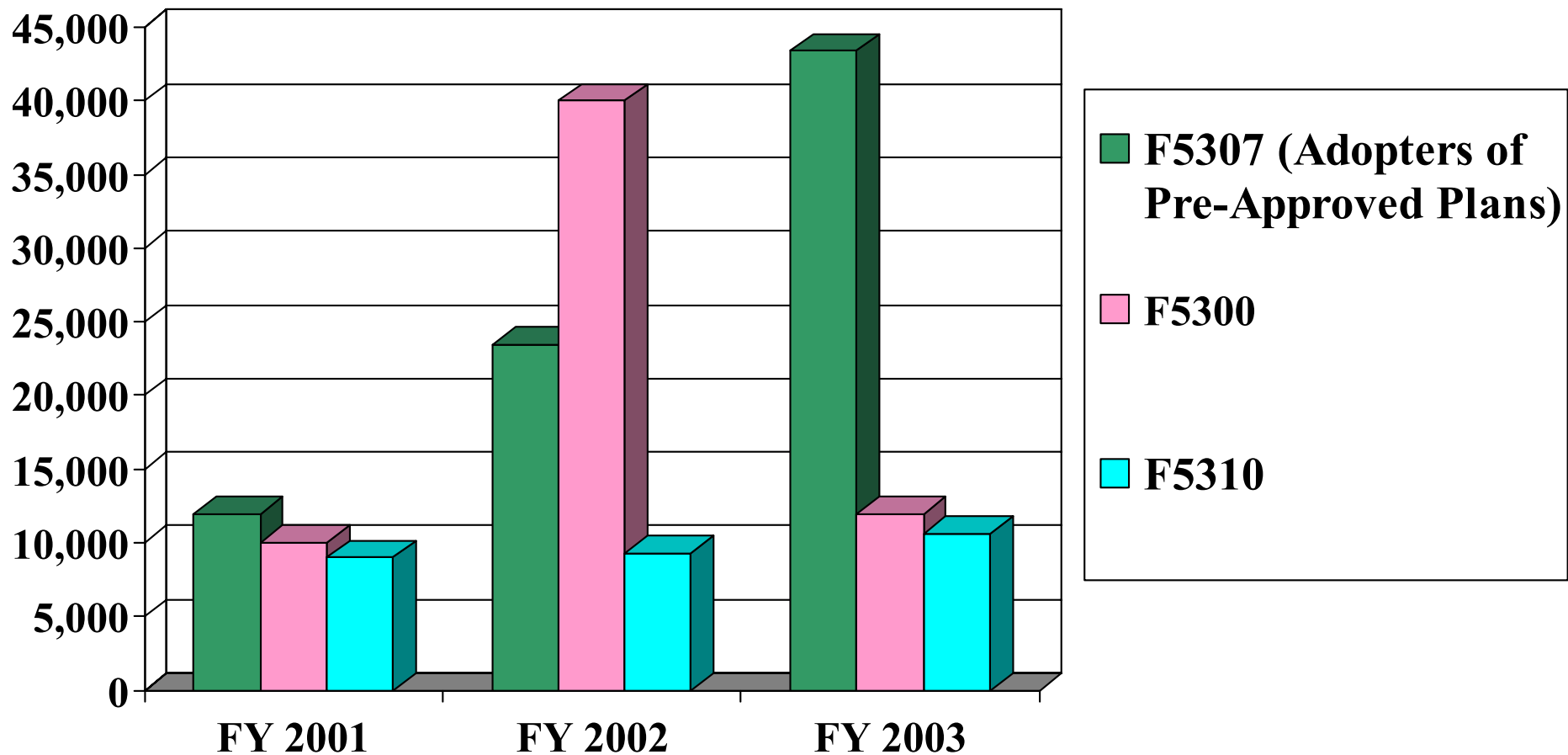


Rulings & Agreements -- Determination Letter Program

- GUST RAP -- Fourth since ERISA
 - Total Applications Expected over FYs 2002 & 2003
 - Expected 275K (Normal year 30K)
 - Now 150K
 - IDPs (on 5300)
 - Expected 100K
 - Now 50K
 - So far 48K
 - Pre-approved Plans
 - Expected 175K
 - Now 75K
 - So far 73K



“GUST” Projected Receipts





Rulings & Agreements -- Determination Letter Program

➤ Why fewer applications?

– IDPs:

- Migration to pre-approved plans

– Pre-approved plans:

- Optional filing for word for word adopters





Rulings & Agreements -- Determination Letter Program

- What EP has done to ease the job of filing applications?
 - Extensions of Remedial Amendment Periods
 - Filing for adopters of identical pre-approved plans optional
 - Nondiscrimination testing optional
 - Soft guidance (in newsletter and on website)
 - Qs & As on website
 - Screening process
 - Guidance on late filers/non-amenders
 - New forms



Rulings & Agreements -- Determination Letter Program

- Extension of Remedial Amendment Period for Pre-Approved Plans
 - RAP is later of 9/30/03 or end of 12-month period from last letter received by sponsor of plan
 - RAP *for filing only* extended to 1/31/04; still must amend or adopt by 9/30 (or 12-month rule date)
 - If miss adoption deadline, may file by 1/31/04 and pay \$250 compliance fee, and RAP extended to 91 days after receipt of letter
 - Extension applies for DC 401(a)(9) required amendments as well
 - If miss 1/31/04 deadline, must use EPCRS



Rulings & Agreements -- Determination Letter Program

- What's coming up from here?
 - Combination of M&P and VS programs?
 - Non-EGTRRA substantive amendments get EGTRRA RAP?
 - Pre-approved plan effective date changes hurt identical adopter status?
 - Model plan documents?
 - Operating manuals? SEP/SIMPLE; 403(b); 401(k)



IRS Pre-Approved Plans (Listed at www.irs.gov/ep)

Master & Prototype Specimens

- 200 sponsors submitted plans by 12/31/00 for GUST
- 1,000 plans total
- Reviewed in Washington D. C.
- Projected adopting employers seeking a determination letter – 35,000
- Number of adopting employers: More than one half million (primarily standardized plans)

Volume Submitter Plans

- 350 sponsors submitted plans by 12/31/00 for GUST
- 1,000 plans total
- Reviewed in Cincinnati and the areas
- Projected adopting employers seeking a determination letter – 40,000 (v. 140,000 orig.)



Staffing for FY 2001 -- 2003

FY 2001

- 150 Agents Total
 - 50 Agents in Cincinnati
 - (35 doing technical screening)
 - 100 Agents working determinations in their respective geographic locations

FY 2002 & 2003

- 290 Agents Total
 - 60 Agents in Cincinnati
 - (35 doing technical screening)
 - 230 Agents working determinations in their respective geographic locations
 - (75 doing technical screening)



Staffing for FY 2004

- 155 Agents Total -- All part of Determinations
 - 60 Agents in Cincinnati
 - (some doing technical screening)
 - 95 Agents working determinations in their respective geographic locations
 - (some doing technical screening)





Rulings & Agreements -- Determination Letter Program

- Why not file and move cases electronically?
 - Major systems redesign
 - Releases over next few years
 - Start with 5307 in 2003
 - Capture data, maintain electronic file of plan and application that would be available for assignment, review and status updates
 - Eventually, self-service checking on status and filing of application



Future of the Determination Letter Program

- Is there a better way to:
 - Simplify the cumbersome process?
 - Utilize resources available?
 - Reduce the amount of time spent by all parties?





“White Paper”

- Compendium of Brain-Storming Ideas (Ann. 2001-83)
 - Current process (complex)
 - Possible alternatives
 - Implementation 5-10 years
 - Comments were due by 7/01/02
 - Summary of comments to be published; revised White Paper
- Public dialogue (your input) is crucial





“White Paper” Options

- Maintain Status Quo
- Eliminate DLs (all plans) – provide model plans for employers who want reliance
- Eliminate DLs for Individually Designed Plans –continue letters for sponsors of pre-approved plans (M&Ps, VS)





“White Paper” Options (continued)

- Third-party Certification System
- Self-certification System
- Annual Registration (Schedule to 5500?)
- Issue DL Only at Initial Adoption and Termination
 - Alt: Annual Registration in between





“White Paper” Options (continued)

- Stagger Expiration of the 401(b) RAP
 - Alt: Stagger the RAP But Require Immediate Amendments for Law Changes
- Immediate Amendment for Law Changes & Again for Guidance - Required Changes
 - Alt: Immediate Amendment for Law Changes and Cyclical Amendments for Guidance-Required Changes

Note: Consider mixing and matching various options.





New “White Paper” Options

- Status Quo?
 - Electronic Administration
 - Identical Adopters Automatic Reliance
- Staggered Expiration of RAPs
- Third-party Certification System
- New Feature: Annual Amendments for All





Staggered RAP Option

- 5-Year RAP Cycle
- Based on Employer TIN
- Implement with EGTRRA RAP
- Disqualifying Provisions: Law, Other Changes



Staggered RAP Option – Special Situations

- Multiemployer plans, etc.
- Spin-offs, mergers
- Change in plan sponsorship
- Pre-approved plans: M&P and Volume Submitter plans/Options



Staggered RAP Option – Determination Letters

- New reliance rules for identical adopters of pre-approved plans unaffected
- Individually designed plans: “Scope” of DL includes all qualification changes (design as well as guidance & legis.) within 5-year RAP cycle
- Pre-approved plans: Scope of DL linked to scope of opinion/advisory letter
- Reliance until end of next 5-year RAP cycle
 - Operational compliance with intervening changes could be required
- Letters will state “Expiration Date”



New Option – Annual Plan Updates

- Service would publish by end of year annual list of changes in qualification rules for following year, e.g., by Nov. 15
- Publish sample amendments, if appropriate
- “Annual” plan amendment requirement
- Special rules for pre-approved plans
- Linkage with staggered RAP option



Partner With Us

- How can we improve on the current program?
- Help us identify issues needing greatest guidance/publicity
- Dialogue on White Paper – “What is your favorite option?”





Contact Information

Share your views with us.

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E-mail is the preferred method of contact.

Questions? Call our
Customer Account Services on
1-877-829-5500; phone preferred

Guidance & General Information is
available at www.irs.gov/ep





Rulings & Agreements -- Voluntary Compliance Prog.

- “Stood up” -- 4 managers, 3 national coordinators, 30 employees across U.S.
- Coordinates closely with exams -- 6 area audit coordinators
- Transfer of cases from technical and other groups to VC
- VC Council; Coordination Committee





Rulings & Agreements -- Technical Groups in DC

- Re-engineering of Technical
- Rapid Rulings Program pilot project
- Focus group meeting on PLR program
- Internal focus group on technical advice work
- Best practices memo
- Emphasis on customer service





Examinations



- Encourage Compliance:
 - Tax-sheltered annuities and 457 plans
 - 401(k)
 - Multiemployer Plans
 - Large Plans (EPTA)
- Resources constrained by Determination Letter load



Risk Assessment

- Refine case selection techniques
- Analyze plans in different industries
 - Type of plan
 - Levels of compliance





Customer Education & Outreach

- Team of employees in six geographical areas across U.S.
- Support benefits conferences/speeches/outreach
- Employee Plans Newsletter
- Employee Plans Website
- Video: The Retirement Reports: Tax Sheltered Annuities and 457 Plans
- CD: Resource Guide for Tax-Sheltered Annuities and 457 Plans



Where to Order

- www.irs.gov/ep
 - Go to Educational Outreach Products
- Contact the IRS Forms Distribution Center at 1-800-829-3676
 - Select **option 2**, *Placing an Order for Forms & Publications*
 - For video when prompted, request **Publication 3767**



TE/GE Advisory Council

- 18 Members
- Met first June 2001
- Six EP members:
 - Brian Anderson Madison WI
 - Mary Beth Braitman Indianapolis IN
 - Jonathan Forman (outgoing) Norman OK
 - Craig Hoffman (outgoing) Jacksonville FL
 - John Schroeder Santa Clara CA
 - Donald Segal New York NY
 (ACT chair)
- Two Vacancies -- Doug Kant, Boston MA, and Michael Coyne, Cleveland OH



?? Questions ??

- Call: 1-877-829-5500
- Visit: EP Customer Account Services section of the Retirement Plans web page: www.irs.gov/ep for email address -- be sure to leave phone number!

